

REMARKS

Claims 1-7 and 9-18 were presented for examination and were pending in this application. In an Office Action dated July 11, 2005, the Examiner rejected claims 1-7, 9-16 and 18 under 35 U.S.C. § 101 as allegedly directed toward non-statutory subject matter. The Examiner also rejected claims 3, 11, 12, 14, and 15 as allegedly failing to comply with the enablement requirement of 35 U.S.C. § 112, first paragraph. The Examiner also rejected claims 3, 4, 11, and 12 under 35 U.S.C. § 112, second paragraph¹; and rejected claims 1, 2, 4, 16, and 17 as being unpatentable over the newly cited "Programmed for Perfection" (hereinafter Programmed) and further in view of "Casino Data Systems-Going Public the IPO Reporter" (hereinafter Going-Public). Claims 5, 6, 7, 9, 10, and 13 were objected to but would be allowable if rewritten in independent form.

Applicants have amended claims 1 and 18 and added new claims 19 and 20.

Applicants have corrected typographical errors in the specification.

Applicants thank the Examiner for the telephonic interview conducted on August 24, 2005, during which the amendments to claims 1 and 18 were discussed.

Response to Rejection Under 35 U.S.C. § 101

The Examiner rejected claims 1-7, 9-16 and 18 under 35 U.S.C. § 101 as allegedly directed toward non-statutory subject matter. Pursuant to the Examiner's comments during the interview, Applicants have amended claims 1 and 18 to obviate this rejection.

¹ Applicants believe that the Examiner meant to reject claim 14 since it contains the phrase "theoretical win" and claim 4 does not.

In response to the Examiner's comments that the body of claims 1 and 18 should explicitly recite that steps were performed by a computer or data processing system, Applicants have so amended claims 1 and 18. Applicants have also amended claim 1 to conform with claim 18, which recites the concrete, useful and tangible result of "using the computer to determine a cost of the requested resource in accordance with the customer valuation" and of storing that value in a memory. Finding out the costs of a particular customer who wants to stay in a particular property are useful (see, for example, specification, pages 2-6), concrete (this is a defined value that is used to make monetary decisions concerning the customer) and tangible (stored in a memory of the computer).

Response to Rejection Under 35 U.S.C. § 112, first paragraph

The Examiner also rejected claims 3, 11, 12, 14, and 15 as allegedly failing to comply with the enablement requirement of 35 U.S.C. § 112, first paragraph.

With regard to claims 3, 11, 12, 14, and 15: At least Fig. 14 and accompanying text show an example of a method to determine theoretical win and daily profits. Table 2, which corresponds to the format of Fig. 8, shows example default theoretical win values. Daily profit is calculated as shown in Fig. 14(b). Moreover, Table 3, which corresponds to the format of Fig. 10, shows an example of specific values used to determine daily profit. See also, for example, pages 28 and 29 of Applicants' specification (gaming value tracking).

With regard to claims 11 and 12: At least see respectively the No and Yes branches of element 3564 of Fig. 14(a) and accompanying text.

With regard to claim 14 and 15: At least see, respectively the Yes and No branches of element 3566 of Fig. 14(a) and accompanying text.

With further regard to claim 3: At least Fig. 15 and accompanying text, for example, show a method to determine a customer segment. The Figure can also be viewed in conjunction with the Table 1 in Applicants' specification, which shows a data structure used to look up customer segments. This data structure uses the data format of Fig. 12. See also discussion at specification, pages 65 and 66.

At least these flowcharts show examples of methods to determine a theoretical win, daily profits, and a customer segment. Therefore, the Examiner is respectfully requested to reconsider and withdraw his rejections of claim 3, 11, 12, 14, and 15 under § 112, first paragraph.

Response to Rejection Under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 3, 4, 11, and 12 under 35 U.S.C. § 112, second paragraph. Applicants believe that the Examiner meant to reject claim 14 instead of claim 4 since claim 14 contains the phrase "theoretical win" and claim 4 does not.

Applicants believe that their comments above in connection with the rejections under § 112, first paragraph, also address this rejection and request that the rejection be withdrawn.

Response to Rejection Under 35 U.S.C. § 103(a)

The Examiner rejected claims 1, 2, 4, 16, and 17 as being unpatentable over the newly cited "Programmed for Perfection" (hereinafter Programmed) and further in view of "Casino Data Systems-Going Public the IPO Reporter" (hereinafter Casino). The Examiner did not reject independent claim 18 over any of the cited art. Applicants note

that claim 18 has been amended herein only for the purpose of overcoming the above-discussed rejection under § 101, and not to overcome the cited art.

Applicants' claim 1, for example, recites:

1. (Currently Amended) A computer-implemented method of determining a customer valuation for a specific property, comprising:

- receiving a request for a resource for the specific property for a customer;
- using the computer to perform a valuing operation for the customer based at least on activities, stored in a database, of the customer at two or more properties, where the customer value is specific to the property; and
- using the computer to determine a cost of the requested resource in accordance with the customer valuation, the cost being stored in a memory of the computer.

Independent claims 17 and 18 contain a similar recitation and are patentable at least for the same reasons discussed below in connection with claim 1. The dependent claims are patentable at least for the same reasons as their independent claims and for the additional reasons noted by the Examiner for claims 5,6, 7, 9, 10, and 13.

The Programmed reference cited by the Examiner discusses Frequent Stay incentive programs at various hotel chains. The Examiner admits that Programmed fails to disclose or suggest that the customer value is specific to the property.

The Examiner contends that "it is known in the art that when a customer checks in at an establishment, the customer value is specific to the property they are checking into" and uses this statement to allege that there would have been motivation for a person of ordinary skill in the art to have combined the Programmed and Casino documents at the

time the invention was made. Applicants disagree that this is well known and respectfully request that, if the Examiner persists in this rejection, he submit a statement of personal knowledge pursuant to MPEP 2144.03, which states:

If the Examiner is relying on personal knowledge to support the finding of what is known in the art, the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2).

In addition, it is not sufficient merely to find a statement that a customer value is specific to a property. That customer value must be specific to the property AND must also be based on the customer's activities at two or more properties. The Examiner has failed to provide sufficient motivation for a person of ordinary skill in the art to have combined the cited documents and the rejection should be withdrawn for this reason. The Examiner's purported motivation is mere hindsight.

Applicants stress that this invention involves a customer value specific to the property that is also based on the customer's activities at two or more properties. Thus, it is not just that a different valuation will be obtained for each property, but that these different valuations are based on activities of the customer at two or more properties. The Examiner's statement fails to address both aspects of the customer value being present in the same system and fails to explain why a person of ordinary skill in the art would have changed the existing systems of Programmed as he suggests.

Moreover, Applicants further disagree that Casino discloses or suggests a customer value specific to a property that is based on the customer's activities at two or more properties. There is nothing in either of the cited documents to suggest that a value

specific to a property is based on the customer's activities in multiples properties. Casino merely states that a value specific to a property is based on activity at that property and there is no disclosure or suggestion in either reference of the claimed customer valuation.

Thus, this rejections should be reconsidered and withdrawn.

Allowable claims

Claims 5, 6, 7, 9, 10, and 13 were objected to but would be allowable if rewritten in independent form. Applicants thank the Examiner for his indication of allowable subject matter.

Applicants note that claims 3, 11, 12, 14, 15 and 18 were not rejected over the cited art so presumably would be allowable if the non-art rejections are overcome.

Conclusion

Applicants respectfully submit that claims 1-7 and 9-18, as presented herein, patentably distinguish over the cited reference (including references cited, but not applied). Therefore, Applicants request reconsideration and allowance of these claims.

In addition, Applicants respectfully invite the Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

RESPECTFULLY SUBMITTED,
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